



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,266	07/11/2001	Anastacia Rosario Aricayos Barangan	AA473	1483

27752 7590 01/19/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

HIRL, JOSEPH P

ART UNIT PAPER NUMBER

2129

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/903,266

Applicant(s)

BARANGAN ET AL.

Examiner

Joseph P. Hirl

Art Unit

2129

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15 and 17-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to an AMENDMENT entered November 11, 2005 for the patent application 09/903,266 filed on July 11, 2001.
2. All prior actions are fully incorporated into this Office Action by reference.

Status of Claims

3. Claims 1-13, 15 and 17-23 are pending in this application.

Allowance Opinion

4. See ¶ 14. below.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-13, 15 and 17-23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-37 of copending Application No. 09/862,742. Although the conflicting claims are not identical, they are not patentably distinct from each other because the conditions of the fabric care product, dosages and related computer system are not novel and obvious of either related to the other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-13, 15, and 17-23 are rejected under 35 U.S.C. 103(a) as being obvious over Koopersmith (U.S. Pub 2001/0042002, referred to as **Koopersmith**).

Claim 1

Koopersmith teaches under control of a first client system (**Koopersmith**, Fig. 1; Examiner's Note (EN): para 13 applies); collecting personalized consumer data pertaining to a consumer's fabric care needs and habits and pertaining to non-fabric care related information (**Koopersmith**, paras 0126-1327); sending the data to a server system (**Koopersmith**, Fig. 4); under control of the server system (**Koopersmith**, Fig. 4); receiving the data from the first client system (**Koopersmith**, Fig. 1); based on the consumer's personalized data determining a recommendation for one or more fabric care products (**Koopersmith**, para 4) and sending the recommendation to the first client system, a second client system or both (**Koopersmith**, Fig. 1). Koopersmith does not teach wherein the fabric care product is selected from the group consisting of a laundry detergent, fabric softening composition, wrinkle removal composition, bleach, bleach activator, dye fixative, stain remover, anti-static composition, dryer added sheet product. However, it would have been obvious to one of ordinary skill in the art at the time of the invention considering that Koopersmith teaches consideration of fabrics (**Koopersmith**,

Art Unit: 2129

para 0707) and further teaches the cleaning of personal clothing (**Koopersmith**, paras 0728, 00729) to consider a fabric care product selected from the group consisting of a laundry detergent, fabric softening composition, wrinkle removal composition, bleach, bleach activator, dye fixative, stain remover, anti-static composition, or dryer added sheet product. Such selection is consistent with the teachings of Koopersmith and the need of an individual to clean shirts and blouses if they are not sent out to be cleaned. And such data would be collected for analysis purposes.

Claim 2

Koopersmith teaches under control of the first client system; receiving the recommendation for the one or more fabric care products (**Koopersmith**, Fig. 1; para 92).

Claim 3

Koopersmith teaches under control of the first client system; displaying one or more queries; and in response to one or more actions by the consumer, sending answers to the one or more queries to a server system (**Koopersmith**, Fig. 1; para 92).

Claim 4

Koopersmith teaches household budget considerations; space considerations within the household; existence and/or identity of any allergies in the consumer's household; relative priority of fabric care operations to other household and family demands on the consumer's time; the consumer's habits, hobbies and personal interests; the consumer's ambitions and life goals; the consumer's stage in life; the consumer's preferred media; and mixtures thereof (**Koopersmith**, paras 0126-1327).

Claim 5

Koopersmith teaches under control of the server system; calculating a recommended quantity for each of the one or more fabric care products recommended for purchase; and sending the recommended quantities with the purchase recommendation to the first client system, a second client system or both (Koopersmith, Fig. 1; para 92).

Claim 6

Koopersmith teaches under control of the first client system; receiving the recommended quantities for each of the fabric care products recommended for purchase (Koopersmith, Fig. 1; para 92).

Claim 7

Koopersmith teaches the server system communicates with the first client system via the Internet (Koopersmith, Fig. 1; para 2).

Claim 8

Koopersmith teaches under control of the first client system with one or more actions by the consumer, one or more fabric care products are selected for purchase and a request is sent to the server system to purchase the selected fabric care products (Koopersmith, Figs. 7, 8; paras 98-99).

Claims 9, 21

Koopersmith teaches the fabric care preference is chosen from a perfume or degree of softness (Koopersmith, Figs. 7, 8; paras 98-99; 0717; EN: para 13. below applies; ladies socks preferences will involve consideration for softness).

Claim 10

Koopersmith teaches the fabric care products selected for purchase are identified, packaged and delivered to the consumer (**Koopersmith**, Figs. 7, 8; paras 98-99).

Claim 11

Koopersmith teaches the fabric care products selected for purchase are dispensed directly to the consumer or they are dispensed to a fabric laundering or fabric drying apparatus under control of the consumer (**Koopersmith**, Figs. 7, 8; paras 98-99).

Claim 12

Koopersmith teaches wherein a receipt identifying the fabric care products selected for purchase is issued to the consumer before the products are delivered to the consumer (**Koopersmith**, para 113).

Claim 13

Koopersmith teaches the receipt comprises an electronic transmitter beacon, and wherein the location of the consumer can be determined electronically with the assistance of the electronic transmitter beacon, once the consumer is located, the fabric care products can be delivered directly to the consumer (**Koopersmith**, para 2; EN: para 13 below applies; the internet is an electronic network that includes transmitters, i.e. cell phones which are beacons and would facilitate delivery).

Claim 15

Koopersmith teaches the number, ages and gender of the people in the consumer's household; the frequency with which fabric care processes are conducted

by the consumer or by members of the consumer's household; the type and color of fabrics that are cared for; and Mixtures thereof (**Koopersmith**, paras 0126-1327; para 48).

Claim 17

Koopersmith teaches the server system comprises a customized web site having a user interface, wherein the user interface includes consumer identification data unique to each consumer who accesses the web site, and wherein the consumer identification data is stored in a data repository and is used to create a unique consumer profile corresponding to the consumer identification data for each consumer (**Koopersmith**, Fig. 6; paras 0126-1327).

Claims 18, 23

Koopersmith teaches providing a sample of a fabric care product identified in the fabric care recommendation, said sample being provided to the consumer associated with the personalized consumer data (**Koopersmith**, para 120).

Claim 19

Koopersmith teaches under control of an interactive user interface (**Koopersmith**, Figs. 1, 6): collecting personalized consumer data pertaining to a consumer's fabric care needs and habits and pertaining to non-fabric care related information (**Koopersmith**, paras 0126-1327); comparing the personalized data to a data repository, wherein the data repository comprises fabric care data selected from the group consisting of fabric care products, dosage recommendations, usage instructions, and mixtures thereof (**Koopersmith**, para 92); and preparing a fabric care

recommendation (**Koopersmith**, para 93; EN: filtering will customize the recommendation).

Claim 20

Koopersmith teaches the interactive user interface comprises a computer assembly connected to the data repository, a display device and an input device (**Koopersmith**, Figs. 1, 6).

Claim 22

Koopersmith teaches wherein the personalized consumer data pertaining to non-fabric care related information is selected from the group consisting of: household budget considerations; space considerations within the household; existence and/or identity of any allergies in the consumer's household; relative priority of fabric care operations to other household and family demands on the consumer's time; the consumer's habits, hobbies and personal interests; the consumer's ambitions and life goals; the consumer's stage in life; the media preferred by the consumer; and mixtures thereof (**Koopersmith**, Fig. 6; para 17; paras 0126-1327). Koopersmith does not teach wherein the fabric care product is selected from the group consisting of a laundry detergent, fabric softening composition, wrinkle removal composition, bleach, bleach activator, dye fixative, stain remover, anti-static composition, dryer added sheet product. However, it would have been obvious to one of ordinary skill in the art at the time of the invention considering that Koopersmith teaches consideration of fabrics (**Koopersmith**, para 0707) and further teaches the cleaning of personal clothing (**Koopersmith**, paras 0728, 00729) to consider a fabric care product selected from the group consisting of a

laundry detergent, fabric softening composition, wrinkle removal composition, bleach, bleach activator, dye fixative, stain remover, anti-static composition, dryer added sheet product. Such selection is consistent with the teachings of Koopersmith and the need of an individual to clean shirts and blouses if they are not sent out to be cleaned.

Response to Arguments

9. Applicant's arguments filed on November 11, 2005 related to Claims 1-13, 15 and 17-23 have been fully considered but are not persuasive.

In reference to Applicant's argument:

Applicant clarify the term "consumer's fabric care needs as comprising "fabric care preferences." To this end, the specification explains the term fabric care preferences may include perfumes and degree of softness.

Examiner's response:

¶ 13. applies. Applicant's attention is drawn to the term "comprising" in the independent claims. MPEP 2111.03 states that the transitional term "comprising" is inclusive or open-ended and does not exclude additional, unrecited elements. Hence the Applicant's amendment related to "fabric care preferences" has achieved very little in the way of claim limitation.

Examination Considerations

10. The claims and only the claims form the metes and bounds of the invention.

“Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)” (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

11. Examiner’s Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner’s Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

12. Unless otherwise annotated, Examiner’s statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be

obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

13. Examiner's Opinion: ¶¶ 10-12 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

14. Allowance Opinion: The methodology concept of collecting data, analyzing such data and determining from such data a recommended entity when applied to the fabric care industry produces a practical application that is useful, tangible and concrete.

Patentability depends on novelty and non-obviousness. Currently, the claims are vulnerable to a substantial array of prior art such as that cited above and that cited in related copending application. The independent claims in the instant case have been focused but further definitization (consistent with the disclosure) is necessary to exclude current cited prior art and that which maybe found in further searches. Prosecution of virtually the same patent application by two different patent art units firmly posts negative points to the allowance scoreboard. Failure to resolve the double patenting issue further frustrates the process. If this Examiner were the Applicant, one of the applications would be closed down now, the other would be reasonably constrained for immediate allowance, and a continuance filing would be made for a patent that broadens the claims of the issued application.

Conclusion

15. Claims 1-13, 15 and 17-23 are rejected.

Correspondence Information

16. Any inquiry concerning this information or related to the subject disclosure should be directed to the Primary Examiner, Joseph P. Hirl, whose telephone number is (571) 272-3685. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, David R. Vincent can be reached at (571) 272-3080.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,

Washington, D. C. 20231;

Hand delivered to:

Receptionist,

Customer Service Window,

Randolph Building,

401 Dulany Street,

Alexandria, Virginia 22313,


(located on the first floor of the south side of the Randolph Building);

or faxed to:

Art Unit: 2129

(571) 273-8300 (for formal communications intended for entry.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



Joseph P. Hirl
Primary Examiner
January 11, 2006